

FOURTH APPELLATE DISTRICT  
DIVISION ONE  
March 8, 2004

**D041142        Bowen et al. v. Ziasun Technologies, Inc.**

The judgment is affirmed. CERTIFIED FOR PARTIAL PUBLICATION. Nares, Acting P.J.;  
We Concur: McIntyre, J., O'Rourke, J.

**D043272        Diana W. et al. v. Superior Court of San Diego County/San Diego County Health  
and Human Services Agency**

The petitions are denied. Benke, Acting P.J.; We Concur: Nares, J., McDonald, J.

**D043862        Carnohan v. Superior Court of San Diego County/Newcomb**

The petition for writ of certiorari is deemed to be a petition for writ of mandate. The petition is denied.

**D042090        People v. Mejia**

The judgment is affirmed. McConnell, P.J.; We Concur: Huffman, J., McIntyre, J.

**D042159        In re the Marriage of Garcia**

The order is affirmed. McConnell, P.J.; We Concur: Nares, J., McIntyre, J.

**D042580        People v. Kendrick**

The judgment is affirmed. McIntyre, J.; We Concur: Benke, Acting P.J., Irion, J.

**D043855        People v. Kassab**

The petition is denied as untimely.

**D042226        Drzewiecki v. Western Family Insurance Company**

The judgment is reversed. Each side shall bear its own costs on appeal. Irion, J.;  
We Concur: Huffman, Acting., P.J., Haller, J.

**D042652        Bouton et al. v. Belshaw et al.**

The appeal is dismissed pursuant to California Rules of Court, rule 17(a).

**D041058        Koebke et al. v. Bernardo Heights Country Club**

The judgment is reversed on Koebke and French's claim that BHCC's bylaws were applied in a  
discriminatory manner. In all other respects the judgment is affirmed. Appellants shall recover their  
costs on appeal. CERTIFIED FOR PUBLICATION. Nares, J.; We Concur: Benke, Acting P.J.,  
McIntyre, J.

**D042131        In re Tiffany H., a Juvenile**

The judgment is affirmed. O'Rourke, J.; We Concur: Nares, Acting P.J., Haller, J.

Court convened at 9:00 a.m.

Present: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate  
Justices Judith Haller and Alex McDonald  
Clerk: D. E. Moore

FOURTH APPELLATE DISTRICT  
DIVISION ONE  
March 8, 2004 (Continued)

**D040104) Burns v. Oakes et al.**

**D041125) Burns v. Oakes**

Cause called on merits. Sara Burns, Esq. argued for appellant in pro per. Desmond J. Hinds, Esq. argued for respondent, Randy Grossman and etc. Robert M. Scherk, Esq. argued for respondent, Lowell & Robbin. No appearance by Ms. Judith Oakes. Ms. Burns replied. Cause submitted.

Court recessed at 9:19 a.m. to change panel members. New panel members: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Gilbert Nares and Alex McDonald

**D042069 Wilkerson, et al. v. Alexander Investment Trust #9**

Cause called on merits. Richard P. Verlasky, Esq. argued for appellant. Steven R. Borer, Esq. argued for respondent. Mr. Verlasky replied. Cause submitted.

**D041773 People v. Alec**

Cause called on merits. Donal M. Hill, Esq. argued for appellant. Lynne McGinnis, Deputy Attorney General argued for respondent. Mr. Hill replied. Cause submitted.

**D042052 Murray v. La Jolla Inns of America Property Company**

Cause called on merits. Robert J. Gaglione, Esq. argued for appellant. Jams M. Roth, Esq. argued for respondent. Mr. Gaglione replied. Cause submitted.

Court recessed at 10:30 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Terry O'Rourke and Cynthia Aaron  
Clerk: D. E. Moore

**D041925 Shuer v. County of San Diego**

Cause called on merits. Joel Chalfen Golden, Esq. argued for appellant. English R. Bryant, Deputy County Counsel argued for respondent. Mr. Golden replied. Ms. Bryant replied. Cause submitted.

Court recessed at 1:53 p.m. to change panel members. New panel members: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Patricia Benke and Terry O'Rourke

**D042289 Path 1 Network Technologies, Inc. v. De Kraker**

Cause called on merits. Terry J. Hellenkamp, Esq. argued for appellant. Richard R. Leuthold, Esq. argued for respondent. Cause submitted.

Court recessed at 2:05 p.m. to change panel members. New panel members: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Patricia Benke and Judith Haller

FOURTH APPELLATE DISTRICT  
DIVISION ONE  
March 8, 2004 (Continued)

**D042633 West Corporation, et al. v. Superior Court/Sanford-RPI**

Matter called on merits. M. Jerome Elmore, Esq. argued for petitioner. Daniel Kelsberg, Esq. was present in oral argument for petitioner, but did not argue. Kevin Green, Esq. argued for real party in interest. Artie Baran, Esq. was present in oral argument for real party in interest, but did not argue. Mr. Elmore replied. Matter submitted.

**D042574 Coldwell Banker Residential Brokerage Company v. Superior Court/Salazar, a minor, etc.-RPI**

Matter called on merits. Carlos Yguico, Esq. argued for petitioner. David Leon Speckman, Esq. argued for real party in interest. Mr. Yguico replied. Matter submitted.

Court recessed at 2:47 to change panel members. New panel members: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Judith Haller and Alex McDonald

**D042696 People v. Kellogg**

Cause called on merits. Laura Beth Arnold, Deputy Public Defender argued for appellant. David Stotland, Deputy City Attorney argued for respondent. Ms. Arnold replied. Cause submitted.

Court recessed at 3:30 p.m. until Tuesday, March 9, 2004 at 9 a.m.

**D043859 In re Austin on Habeas Corpus**

The petition is denied.

**D041900 In re the Marriage of D.**

The judgment is modified to delete its paragraph 10, as modified, the judgment is affirmed. Appellant shall have costs on appeal. Irion, J.; We Concur: Aaron, J., O'Rourke, Acting P.J.

**D043784 Kelly v. Superior Court of San Diego County/Kelly**

The petition is denied.

**D043017 In re Erykah R., a Juvenile**

The judgment is affirmed. Haller, J.; We Concur: Huffman, Acting P.J., Aaron, J.

FOURTH APPELLATE DISTRICT  
DIVISION ONE  
March 9, 2004

**D043157      People v. Ridener**

Appellant has failed to file a brief after notice given pursuant to California Rules of Court, rule 33(c)(5) and 17. The appeal is dismissed.

**D043669      Faulkner v. Workers' Compensation Appeals Board and Sony Electronics, Inc.**

The petition is denied.

**D043320      Alicia B. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The opinion filed February 19, 2004, is ordered certified for publication.

**D040734      People v. Cleveland**

The judgment is affirmed. Huffman, Acting P.J.; We Concur: Haller, J., Irion, J.

**D042600      Ebbert v. Superior Court of San Diego County/City of San Diego**

The petition for rehearing is denied.

Court convened at 9:00 a.m.

Present: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices James McIntyre and Cynthia Aaron

Clerk: D. E. Moore

**D043096      Chatzky and Associates et al. v. Superior Court/Bank of America Corporation-RPI**

Matter called on merits. Robert B. Coffin, Esq. argued for petitioner. Thomas M. Robins, Esq. argued for real party in interest. Mr. Coffin replied. Matter submitted.

Court recessed at 9:15 a.m. to change panel members. New panel members: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices James McIntyre and Joan Irion

**D039716      People v. Stanley**

Cause called on merits. Waldemar D. Halka, Esq. argued for appellant. Raquel Gonzalez, Deputy Attorney General argued for respondent. Mr. Halka replied. Cause submitted.

**D041568      Medel v. City of National City**

Cause called on merits. Robert E. Gallagher, Esq. argued for appellant. Kenneth Stone, Esq. argued for respondent. Cause submitted.

**D041280      Geraci et al. v. Frantz et al.**

Cause called on merits. Giles Tempest Townsend, Esq. argued for appellant. Ronald F. Frazier, Esq. argued for respondent. Stephen F. Lopez, Esq. was present in oral argument for respondent, but did not argue. Mr. Townsend replied. Cause submitted.

Court recessed at 10:15 a.m. until 1:30 p.m.

FOURTH APPELLATE DISTRICT  
DIVISION ONE  
March 9, 2004 (Continued)

Court reconvened at 1:30 p.m.

Present: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Patricia Benke and Judith Haller  
Clerk: D. E. Moore

**D043033        Haggerty v. Superior Court/Guindazola-RPI**

Matter called on merits. Kevin G. Kennedy, Esq. argued for petitioner. Susie Moore, Esq. argued for real party in interest. Mr. Kennedy replied. Matter submitted.

Court recessed at 2:06 p.m. to change panel members. New panel members: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Judith Haller and Cynthia Aaron

**D041518        Hester v. Family Golf Centers, Inc.**

Cause called on merits. Darin L. Wessel, Esq. argued for appellant. J. W. Carver, Esq. argued for respondent. Mr. Wessel replied. Cause submitted.

**D040163        Safari Salon and Spa et al. v. Prospect Pointe et al.**

Cause called on merits. Michael W. Robinson, Esq. argued for appellant. Michael W. Connelly, Esq. argued for respondent, Prospect Pointe. Eugene P. Kenny, Esq. argued for respondent, Spectrum Property Management, Inc. Mr. Robinson replied. Cause submitted.

Court recessed at 3 p.m. until Wednesday, March 10, 2004 at 9 a.m.

**D041231        People v. Konrardy**

The judgment is reversed as to the sentence only. The matter is remanded for retrial on the issue of whether the section 245(a)(1) prior convictions are strike convictions and for resentencing. In all other respects the judgment is affirmed. Haller, Acting P.J.; We Concur: O'Rourke, J., Aaron, J.

**D043071        People v. Gerasimoff**

The judgment is affirmed. McIntyre, J.; We Concur: Huffman, Acting P.J., McDonald, J.

**D042053        Guinan v. Soleil Balboa Park et al.**

The judgment is affirmed. Huffman, Acting P.J.; We Concur: Haller, J., McDonald, J.

**D041199        Residential Capital, LLC v. Do**

Judgment affirmed. Respondent to recover her costs of appeal. Benke, Acting P.J.; We Concur: McDonald, J., McIntyre, J.

**D043544        Hansen v. Hillyer & Irwin et al.**

Upon written request filed by appellant, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 20(c)(2)).

FOURTH APPELLATE DISTRICT  
DIVISION ONE  
March 10, 2004

**D041026        Wilson v. Hall**

The petition for rehearing is denied.

**D041501        The Ronald Bonaguidi Irrevocable Insurance Trust v. O'Connor**

**D041771        Ronald Bonaguidi, as Trustee, etc. v. O'Connor**

(consolidated) The judgment is affirmed. McIntyre, J.; We Concur: Nares, Acting P.J., O'Rourke, J.

Court convened at 9:00 a.m.

Present: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Alex McDonald and James McIntyre  
Clerk: D. E. Moore

**D040702        People v. Palmer**

Cause called on merits. Gary V. Crooks, Esq. argued for appellant. Gil Gonzalez, Deputy Attorney General argued for respondent. Mr. Crooks replied. Cause submitted.

Court recessed at 9:08 a.m. to change panel members. New panel members: The Honorable Gilbert Nares, Acting Presiding Justice, and The Honorable Associate Justices Alex McDonald and James McIntyre

**D041908        People v. Munger**

Cause called on merits. James Joseph Warner, Esq. argued for appellant. Andrew S. Mestman, Deputy Attorney General argued for respondent. Mr. Warner replied.

**D041303        Leisher v. Alfred**

Cause called on merits. Phillip Burkhardt, Esq. argued for appellant. George A. Foster, Esq. argued for respondent. Mr. Burkhardt replied. Cause submitted.

Court recessed at 10:10 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices James McIntyre and Cynthia Aaron  
Clerk: D. E. Moore

**D043155        Foley v. Superior Court/People-RPI**

Matter called on merits. Gary Nichols, Deputy Public Defender argued for petitioner. Linda L. Peter, Deputy City Attorney argued for real party in interest. Matter submitted.

Court recessed at 1:51 p.m. to change panel members. New panel members: The Honorable Gilbert Nares, Acting Presiding Justice, and The Honorable Associate Justices James McIntyre and Cynthia Aaron

FOURTH APPELLATE DISTRICT  
DIVISION ONE  
March 10, 2004 (continued)

**D043340        Teal v. Superior Court/People-RPI**

Matter called on merits. Michael Zachry, Deputy District Attorney was present in oral argument for real party in interest and submitted on the briefs. Lisa Kay Baughman, Esq. was present in oral argument for petitioner and submitted on the briefs as well. Matter submitted.

**D042848        In re Ruben B., a juvenile**

Cause called on merits. Donna Kaiser, Esq. argued for appellant. Debra Barriger, Deputy County Counsel argued for respondent. Julie E. Braden, Esq. argued for the minor. Ms. Kaiser replied. Cause submitted.

Court recessed at 2:22 p.m. to change panels. New panel members: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Gilbert Nares and James McIntyre

**D042255        Hawkes v. Sommer**

Cause called on merits. Ervin Sommer, argued for appellant pro per. Gregory Y. Lievers, Esq. argued for respondent. Mr. Sommer replied. Cause submitted.

Court recessed at 2:46 p.m. until Thursday, March 11, 2004 at 9 a.m.

**D042210        People v. Garcia**

The judgment is affirmed. Nares, J.; We Concur: Benke, Acting P.J., Irion, J.

**D042876        People v. Houston**

The judgment is affirmed. O'Rourke, J.; We Concur: McConnell, P.J., Irion, J.

**D042958        In re D. P. , a Juvenile**

The judgment is affirmed. Haller, J.; We Concur: Benke, Acting P.J., Irion, J.

**D043007        In re Marissa K., a Juvenile**

Judgment affirmed. Irion, J.; We Concur: McConnell, P.J., O'Rourke, J.

**D041396        Joseph v. Board of Administration for the City of San Diego City Employees'  
Retirement System/City of San Diego**

The appeal and cross-appeal are dismissed. Each party to bear its own costs. Huffman, Acting P.J., We Concur: Haller, P.J., Aaron, J.

**D042072        Skane et al. v. City of San Diego et al.**

The order of the superior court denying Skane and Mailhot's motion for an award of attorney fees pursuant to section 1021.5 is affirmed. McIntyre, J.; We Concur: Benke, Acting P.J., Nares, J.

**D043761        In re Marriage of Peralta and Cardenas**

The appellant having failed to timely pay the filing fee, the appeal is dismissed.

**D042715        Day v. Tarantino**

The judgment is affirmed. Benke, Acting P.J.; We Concur: Nares, J., McIntyre, J.

FOURTH APPELLATE DISTRICT  
DIVISION ONE  
March 10, 2004 (continued)

**D042765 Corona v. Amherst Partners**

The judgment is affirmed. Defendants are awarded costs on appeal. McIntyre, J.;  
We Concur: Nares, J., O'Rourke, J.

**D042673 Agazam v. San Diego Auto Connection, Inc.**

Appellant has failed to file a brief after notice given pursuant to California Rules of Court, rule 17(a).  
The appeal is dismissed.

**D040677 The Redevelopment Agency of the City of San Diego v. San Diego Specialty Produce, Inc.**

The judgment and the order denying SDSP its litigation expenses are affirmed. SDSP is to recover its costs of appeal. McIntyre, Acting P.J.; We Concur: O'Rourke, J., Aaron, J.

**D043336 In re Joe A. et al., Juveniles**

Appellant has failed to file a brief in accordance with the letter of February 20, 2004. The appeal is dismissed.



FOURTH APPELLATE DISTRICT  
DIVISION ONE  
March 11, 2004

**D043880        In re Torres on Habeas Corpus**

The petition is denied.

**D043856        In re McClaughlin on Habeas Corpus**

The petition is denied.

**D043864        In re Baker on Habeas Corpus**

The petition is denied.

**D043874        In re Katowski on Habeas Corpus**

The petition is denied as duplicative.

**D042246        People v. Montgomery**

The judgment is affirmed. McDonald, Acting P.J., We Concur: McIntyre, J., Irion, J.

**D040651        Kreutzer et al. v. Metabolife International, Inc.**

The judgment is reversed and remanded. O'Rourke, J.; We Concur: Benke, Acting P.J., Nares, J.

**D041861        In re Estate of Hubbard**

The order is affirmed. O'Rourke, J.; We Concur: McConnell, P.J., Aaron, J.

**D042249        Ralphs Grocery Company v. Massie et al.**

The order is reversed with directions to the superior court to adjudicate Ralphs's petition in harmony with this opinion. Ralphs shall have costs on appeal. CERTIFIED FOR PUBLICATION. Irion, J.; We Concur: Huffman, Acting P.J., McDonald, J.

**D041357        Smith et al. v. Dodge et al.**

The judgment is affirmed. Nares, Acting P.J.; We Concur: McIntyre, J., O'Rourke, J.

**D041608        Salus et al. v. San Diego County Employees Retirement Association et al.**

Judgment affirmed. Respondents to recover their costs.

**D043707        Crystal A. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The attorney for petitioner Crystal A. has notified the court on behalf of the petitioner that a Petition for Writ of Mandate under Rule 39.1B will not be filed as there are no viable issues for writ review. The case is dismissed.

Court convened at 9:00 a.m.

Present: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Patricia Benke and Terry O'Rourke  
Clerk: D. E. Moore

**D041444        Perry v. Rogers**

Cause called on merits. Robert D. Frank, Esq. argued for appellant. Thomas L. Vance, Esq. argued for respondent. Mr. Frank replied. Cause submitted.

FOURTH APPELLATE DISTRICT  
DIVISION ONE  
March 11, 2004 (Continued)

Court recessed at 9:21 a.m. to change panel members. New panel members: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Patricia Benke and Cynthia Aaron

**D040533      People v. Salcido**

Cause called on merits. Richard W. Weinthal, Esq. argued for appellant. Annie Fraser, Deputy Attorney General argued for respondent. Mr. Weinthal replied. Cause submitted.

**D042272      People v. Spencer S.**

Cause called on merits. John Tehranian, Esq. argued for appellant. Angela Borzachillo, Deputy Attorney General argued for respondent. Mr. Tehranian replied. Cause submitted.

**D041210      National Environmental Waste Corporation v. County of San Diego**

Cause called on merits. Jeffrey B. Gardner, Esq. argued for appellant. Laura J. Petrie, Esq. was present in oral argument for appellant, but did not argue. Thomas Deak, Deputy County Counsel argued for respondent. Mr. Gardner replied. Cause submitted.

Court recessed at 10:20 a.m. to change panel members. New panel members: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Terry O'Rourke and Cynthia Aaron

**D042038      Barratt American, Inc. v. City of San Diego et al.**

Cause called on merits. Walter Patterson McNeill, Esq. argued for appellant. John P. Mullen, Deputy City Attorney argued for respondent. Mr. McNeill replied. Cause submitted.

Court recessed at 10:39 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Gilbert Nares and Joan Irion  
Clerk: D. E. Moore

**D041036      People v. Wilson**

Cause called on merits. Gregory L. Rickard, Esq. argued for appellant. Angela Borzachillo, Deputy Attorney General argued for respondent. Mr. Rickard replied. Cause submitted.

**D041287      Strong et al. v. Hirsch et al.**

Cause called on merits. Robert R. Beauchamp, Esq. argued for appellant. No appearance by respondent's counsel. Cause submitted.

**D041833      Ruiz v. Sysco Food Services**

Cause called on merits. Mark T. Bennett, Esq. argued for appellant. Reza Keramati, Esq. argued for respondent. Mr. Bennett replied. Cause submitted.

**D040967      Bosinger v. Law Offices of James J. Warner**

Cause called on merits. Alan L. Geraci, Esq. was present in oral argument for appellant. Douglas M. Butz, Esq. was present in oral argument for respondent. Court will withhold submission for 30 days since parties are talking settlement.

FOURTH APPELLATE DISTRICT  
DIVISION ONE  
March 11, 2004 (Continued)

Court recessed at 2:21 p.m. until Friday, March 12, 2004 at 9 a.m.

FOURTH APPELLATE DISTRICT  
DIVISION ONE  
March 12, 2004

**D042833      People v. McKinley**

The judgment is affirmed. Nares, J.; We Concur: Benke, Acting P.J., Aaron, J.

**D041093      Weegar v. Sweetwater Union High School District**

The judgment is reversed and remanded with directions to the superior court to enter a new judgment in Weegar's favor solely on the retaliation claim. The parties shall bear their own costs on appeal. Aaron, J.; We Concur: McDonald, Acting P.J., Irion, J.

**D041207      Tadlock et al. v. Southwestern Yacht Club et al.**

The judgment of dismissal is reversed and the trial court is directed to conduct appropriate further proceedings in light of the views set forth in this opinion. Each party is to bear its own costs. Huffman, J.; We Concur: Benke, Acting P.J., McDonald, J.

**D041081      Tanner et al. v. Conte**

The judgment awarding Tanner costs of repair is reversed. The case is remanded for further consideration in light of our opinion herein. Benke, Acting P.J.; We Concur: McIntyre, J., O'Rourke, J.

**D043879      In re Goldhagen on Habeas Corpus**

The petition is denied.

**D043453      Maria L. v. San Diego County Superior Court/San Diego County Health and Human Services Agency**

The petition is denied. Irion, J.; We Concur: Benke, Acting P.J., McDonald, J.

**D043882      In re Woods on Habeas Corpus**

The petition is denied.

**D043837      In re Zequeida on Habeas Corpus**

The petition is denied.

**D043883      Denton v. Superior Court of Sacramento/People**

Petitioner has written a letter to the court acknowledging that he has filed this petition in the wrong court. We deem the letter to be a request to dismiss the petition. The request is granted and the petition is dismissed without prejudice.

Court convened at 9:00 a.m.

Present: The Honorable Judith Haller, Acting Presiding Justice, and The Honorable Associate Justices Terry O'Rourke and Cynthia Aaron  
Clerk: D. E. Moore

**D042086      Jones et al. v. City of San Diego et al.**

Cause called on merits. James M. Chapin, Esq. argued for appellant/cross-respondent. Everett L. Bobbitt, Esq. argued for respondent/cross-appellant. Mr. Chapin replied. Cause submitted.

FOURTH APPELLATE DISTRICT  
DIVISION ONE  
March 12, 2004 (Continued)

Court recessed at 9:22 a.m. to change panel members. New panel members: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Terry O'Rourke and Cynthia Aaron

**D042009        People v. Latuska**

Cause called on merits. Carmel Myers, Esq. argued for appellant. Hector Jimenez, Deputy Attorney General argued for respondent. Ms. Myers replied. Cause submitted.

Court recessed at 9:37 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Richard Huffman and Gilbert Nares  
Clerk: D. E. Moore

**D043178        Medical Staff of Sharp Memorial Hospital, et al. v. Superior Court Penny Pancoast-RPI**

Matter called on merits. Richard Barton, Esq. argued for petitioner. John Morris, Esq. was present in oral argument for petitioner, but did not argue. Robert M. Dato, Esq. argued for real party in interest. Mr. Barton replied. Matter to be submitted at a later date.

Court recessed at 2:19 p.m. to change panel members. New panel members: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Gilbert Nares and Alex McDonald

**D041775        People v. Pitts**

Cause called on merits. Randy Willert, Certified Law Student argued for respondent. Matthew Braner, Deputy Public Defender argued for appellant. Cause submitted.

Court adjourned at 2:30 p.m.

**D043914        In re Gagnon on Habeas Corpus**

Incarceration of petitioner is stayed pending further order of this court. Petitioner is to provide this court with a reporter's transcript of the contempt proceedings, all papers filed in connection with the contempt hearing, and a copy of the order of contempt.